

The Herald and News

VOLUME XLIX, NUMBER 47.

NEWBERRY, SOUTH CAROLINA. TUESDAY, JUNE 13, 1911.

TWICE A WEEK, \$1.50 A YEAR.

NOL PROS ENTERED IN CASE AGAINST EVANS

ATTORNEY GENERAL ASKED FOR ANOTHER CONTINUANCE.

Order of Judge Watts Passed at Last Term of Court Held to be Binding.

A nolle prosequi was on Monday morning ordered by the court in the case of the State vs. H. H. Evans, charged with accepting a rebate while a member of the board of directors of the State dispensary. Judge Gary held that, inasmuch as no appeal had been taken by the State from the order of Judge Watts, passed at the last term of the court, this order was binding. The order of Judge Watts provided that the State be precluded from making a motion for a continuance at a succeeding term, and in the event that such motion was made, ordered that a nolle prosequi be entered upon the indictment.

A nolle prosequi discharges the recognizance of the defendant, but does not prevent another bill of indictment being handed out in a case. When asked what would be the future course of the State in regard to the matter, Solicitor Cooper stated on Monday that the whole matter was in the hands of the attorney general.

When the case was reached by Judge Gary on the sound of the docket in the sessions court on Monday morning, Solicitor Cooper stated that the case was one of those in which Attorney General Lyon had entire charge of the prosecution, and that he had a letter from the attorney general which he desired to read to the court. The letter follows:

The letter of the attorney general in regard to the Evans case, which was read to the court by the solicitor, was as follows:

"Columbia, June 6, 1911.
"Hon. R. A. Cooper, solicitor, Laurens, S. C.—Dear Sir: The next term of the court of general sessions will convene at Newberry on Monday, the 12th inst., and it is probable that H. H. Evans will demand trial of his case at that time. If such demand should be made I will ask that you say to the court that the State was unable to proceed to try this case at the last term on account of the death of G. H. Charles, who was a material witness for the prosecution, and that the State has not been able so far to supply the evidence of which it was deprived by reason of the death of Mr. Charles. In addition to the above, I do not think it wise to undertake the trial of this case at this time, but that it would be for the best interest of the State and for the vindication of the law to have it further continued. Nevertheless, I recognize the right of the accused to a speedy trial, and regret that the State is not at this time in a position to dispose of the case.

"However, if the presiding judge should not concur in the views herein expressed, and shall order the case to trial, I will ask that you enter a nolle prosequi on the indictment.

"Yours very truly,
"J. Fraser Lyon,
"Attorney General."

Eugene S. Blease, Esq., representing Mr. Evans, demanded a trial of the case or that a nol pros be entered. "The defendant," he said, "is in the same position that he has been for three terms of the court—ready and anxious for a trial of this case. It has been continued by the State at each of the three terms that it has been on the docket, in the face of vigorous protest, in each instance, on the part of the defendant. And at the last term of court Judge Watts continued the case and passed this order: 'This case having been called, and the solicitor having made a motion for the continuance thereof until the next term of court, and it appearing that the defendant at the June and November, 1910, terms of the court, demanded a trial, and that he has again at this term of the court demanded trial, it is therefore ordered and adjudged that the cause be continued until the next regular term of this court, and it is further ordered that the State be precluded at any future term of this court from making a motion for a continuance,

and in the event that such a motion is made, that a nolle prosequi be entered upon the indictment, and the defendant be discharged."

The solicitor contended that he did not think that a presiding judge at one term of the court could pass an order to preclude another judge at a subsequent term from passing any order he might see fit. He thought that the order was ultra vires—that it was beyond the power of the judge to make such an order.

Judge Gary held that the order, not having been appealed from, became binding. He said he had no hesitation in saying that if the order had been appealed from, he doubted if the power of the circuit judge could go so far, "but," he said, "we are in this position here, that one circuit judge can not reverse another, and the supreme court being the only tribunal that could reverse this order, it is binding on this court."

Judge Gary signed the following order entering a nolle prosequi:

"At the last term of this court an order containing the following provision was passed by the presiding judge:

"And it is further ordered that the State be precluded, at any future term of this court, from making a motion for a continuance, and in the event that such motion is made, that a nolle prosequi be entered upon the indictment and the defendant be discharged."

"The State, at this term, makes another motion for a continuance.

"There was no appeal from the former order to the supreme court, but, on the contrary, the State having acquiesced in the same, and that order is therefore the judgment of this court.

"It is therefore ordered that the motion for a continuance be refused, and that a nolle prosequi be entered on said indictment.

"It is further ordered that the defendant and his recognizance be discharged, and he be allowed to go hence without day.

"Ernest Gary,
"Presiding Judge.
"June 12, 1911."

Great Disposal Sale.

R. H. Anderson & Company will inaugurate on Saturday, June 17, a great disposal sale of dry goods, shoes and clothing, and they propose to dispose of this stock within 13 days.

How They Can Help.

At a meeting of the Chautauqua association held a few days ago, every member was urged to show his appreciation and willingness to help by personally purchasing or selling at least five tickets. The response to this appeal has been most gratifying, and yet there are a good many tickets to be sold. Just a little effort and a little interest and all the tickets will be taken before the end of the week. Do not wait until they are all gone for you will then be sorry that you did not purchase your ticket in time.

Mr. Dominick in New York.

A letter from Mr. J. Claude Dominick encloses a copy of the menu card of the Interstate Cottonseed Crushers' association banquet in New York, which was attended by those on the press trip, including Mr. Dominick. The banquet was an elaborate affair, among the postprandial speakers being President Taft and Mr. B. F. Taylor, of Columbia, president of the association. Mr. Dominick writes that all on the trip are having a fine time and are enjoying themselves very much.

Cut It Out.

Union Times.
If the theory that pellagra comes from corn and its products is correct, and it is substantiated by long observation, the drinkers of low grade corn whiskey will do well to pause. It is claimed upon good authority that corn whiskey distilled from spoiled corn is one of the most prolific sources of this fearful disease. Blind tiger corn whiskey is bound to be dangerous. It is just through this channel that the meanest of it would find a market. The alarming increase of the cases of pellagra should cause serious thought, especially upon the part of the drinker of corn whiskey.

SEVERANCE REFUSED IN BOOZER AND HIPPE CASE

CASE IS FIXED FOR TRIAL TUESDAY MORNING.

Other Matters Before the General Sessions Court, Judge Ernest Gary Presiding.

The summer term of the general sessions court for Newberry county convened on Monday morning, Judge Ernest Gary, of Columbia, presiding, and Solicitor R. A. Cooper at his accustomed place of duty. There were a number of cases on the docket brought over from previous terms of court, and several indictments were handed out by the solicitor on Monday morning.

Judge Gary stated to the grand jury that, as this was the second term of the year, and as they had been fully charged at the preceding term, he would not charge the magain as to their general duties, but only hand them the bills of indictment.

The intention of the solicitor was to clear the jail first, and at this, the summer term, to take up only such cases where the defendants were out on bond in which the State's interests would suffer by a continuance. This custom has been generally observed by the solicitor at the summer terms of court, and its wisdom has been shown.

The case against Charles H. Counts, of Pomaria, charged with violation of the dispensary law, in which there was a mistrial at the last term of court, was continued.

In the case against H. H. Evans, charged with accepting a rebate, a nol pros was ordered by the court on the grounds stated elsewhere in this issue of The Herald and News.

An order was passed by the court to have Mose Williams, colored, examined as to his sanity. It will be recalled that Williams killed his wife on Mr. John Harmon's place, in the lower Broad river section of the county, recently.

Motion for Severance.

When the case of the State vs. Sam Boozer and Jno. C. Hipp, charged with murder in connection with the killing of James S. Gilliam, was called, Solicitor Cooper announced that the State would be ready for a trial at this term. Col. George Johnstone, of counsel for Mr. Hipp, gave notice of a motion for a severance, the effect of which, if granted, would be to give separate trials to the two defendants. Boozer, who has been in the State penitentiary for safe-keeping, was brought to Newberry by Sheriff Buford on Monday morning.

True Bills Returned.

The grand jury on Monday morning returned the following true bills:

State vs. Fact James, charged with murder.

State vs. Jim Workman, Eph Williams and Virge Williams, charged with murder. This is the case arising out of the recent killing of Henry Baxter, colored, at Rocky Zion church.

Mose Williams Insane.

The commission of doctors appointed to examine Mose Williams, charged with murder in the killing of his wife, reported on Monday afternoon that in their opinion Williams was insane, and was insane at the time of the killing of his wife. Under this statement of the doctors, Williams will be committed to the State Hospital for the Insane.

No Severance in Hipp and Boozer Case.

Judge Gary overruled the motion for a severance in the case of the State vs. Sam Boozer and John C. Hipp, charged with murder in the killing of James S. Gilliam by Boozer on Mr. Hipp's Old Town plantation in the spring of this year. The motion was made by Messrs. Johnstone & Cromer, representing Mr. Hipp. Solicitor Cooper urged that the State's testimony in the case would be practically the same against both defendants, and that a severance would simply mean the trying of one case twice. Mr. Hipp's attorneys urged that Mr. Hipp was a man who had stood well in the community, and that it would be a humiliation to try him along with Boozer, unless the interests of justice urgently demanded it, and they contended that this was not the case.

They further contended that Mr. Hipp might need Boozer as a witness and if the two were tried together Mr. Hipp would be deprived of Boozer's testimony for the reason that a defendant could not force a co-defendant to testify. After hearing the arguments Judge Gary overruled the motion. The State announced ready for trial. Mr. G. G. Sale, representing Boozer, announced ready. Messrs. Johnstone & Cromer stated that several of their witnesses did not answer and asked for bench warrants for them. Mr. Sale stated that Boozer was expecting to avail himself of the testimony of these absent witnesses, and was as much interested in securing their testimony as was Mr. Hipp, and had not subpoenaed them because they had been subpoenaed by the attorneys representing Mr. Hipp, and he joined in the request for the bench warrants. The bench warrants were issued for these witnesses. The defense asked that the case go over until Tuesday morning in order to give time to get these witnesses here. Under this showing the case was postponed until this (Tuesday) morning.

MOLLOHON DEFEATS WATTS

Snappy Game on the Mollohon Diamond on Saturday Afternoon. Score 2 to 1.

In a game characterized by fast fielding and heavy batting for the locals, the Mollohon team defeated the heretofore-undefeated Watts mill team, of Laurens, on the Mollohon diamond Saturday afternoon, the score being 2 to 1. The game was anybody's until the eighth, when Boozer, by a long drive to left for two bags, scored Wicker, and decided the game for the locals.

Watts Mill scored their only run in the third inning. The locals passed one man over the plate in the fifth, tying the score and making uncertain the result, until Boozer's timely rap over short in the eighth.

Harper, for Mollohon, pitched a great game, striking out seven of the visitors, and allowing only four hits. Hill saved the game for the locals by a sensational catch of a long fly to centre in the ninth. The heavy hitting of the Mollohon team was a feature, five of the eight hits secured being for two bags.

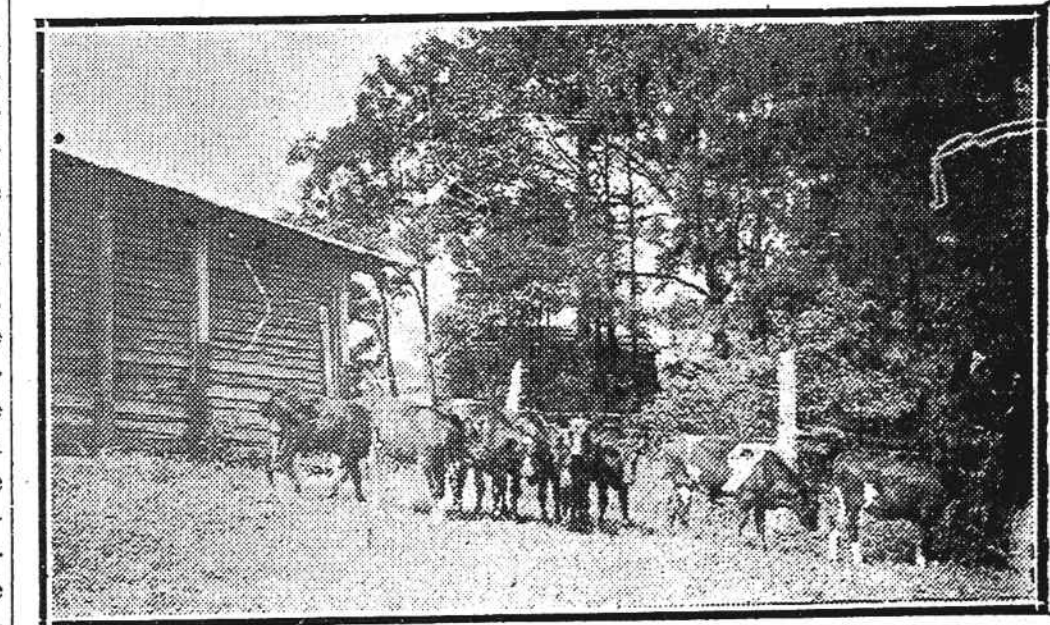
Score: R H E
Mollohon . . . 000 010 010—2 8 1
Watts Mill . . . 001 000 000—1 4 0
Batteries: Harper and Morse; McAbee and Nesbitt.
Struck out: Harper 7; McAbee 4.
Base on balls: Off Harper 1; McAbee 4.
Left on bases: Mollohon 3; Watts Mill 2.

Earned runs: Mollohon 2.
Time of game, 1.30.
The Mollohon team will go to Clinton on Saturday, where they will cross bats with the Clinton Cotton mill team. On the 19th inst. they will meet the fast Newberry college team

FINE CATTLE.

The Kind of Farming That Pays—Cattle, Hogs, Hay Crops and Then Cotton.

Mr. L. W. Floyd has been doing some good farming on his place in No. 6 township. By that we mean to say that he has been improving his stock,



giving special attention to the raising of fine cattle and hogs. This means that he is diversifying his farming and growing such produce that is necessary to maintain cattle and hogs. It does not mean that he has abandoned the growing of cotton, but he is doing what every farmer in Newber-

ry county should do, growing hay crops, corn and wheat, which makes it possible and profitable for him to grow cattle. He realizes too that it costs no more to maintain and keep good cattle and fine hogs than it does poor ones.

He has now Poll-Durham cattle which means short horns, and that means that the horns have been bred

on the college diamond. This will be one of the added features of "Home Coming Week."

NEWBERRY COLLEGE LYCEUM.

Program for Next Season Announced. A Splendid and Attractive Course Arranged.

The management of the Newberry lyceum course wishes to announce to the people of Newberry that a splendid course has been secured for the season 1911-1912.

It is as follows: Dr. Byron W. King, who was with us last season; The Cafarelli Concert party; Dr. Geo. P. Bible, humorous lecturer; The Philadelphia Opera and Concert party; The Great Skovgaard Concert party; The Toronto Male Quartette. This is a course of high merit. Further announcements will be made at the proper time.

Still Another Sunday Marriage.

On Sunday, June 4, at the home of the bride near Springhill, Mr. J. J. Hipp and Miss Sallie Eargle were married. They will be at home in Orangeburg.

Capt. Dickert and Family Visit Newberry.

Union Progress, 9th.
Capt. J. R. Dickert and family went over to Newberry Tuesday in their touring car to attend commencement week. Capt. Dickert and family enjoyed the occasion very much and on their return came by Capt. Dickert's plantation in Newberry county. They

report that the crops in that section are in excellent condition, that they had had a good deal of rain in that section and everything was in good shape.

Prosperity Circuit Quarterly Conference.

The third quarterly conference of the Prosperity circuit will be held at Zion church Saturday, June 17, 1911. Preaching Saturday at 11 a. m. and Sunday at 11 a. m., by Rev. J. C. Roper, P. E. Cokesbury district. A full attendance is requested at these services.

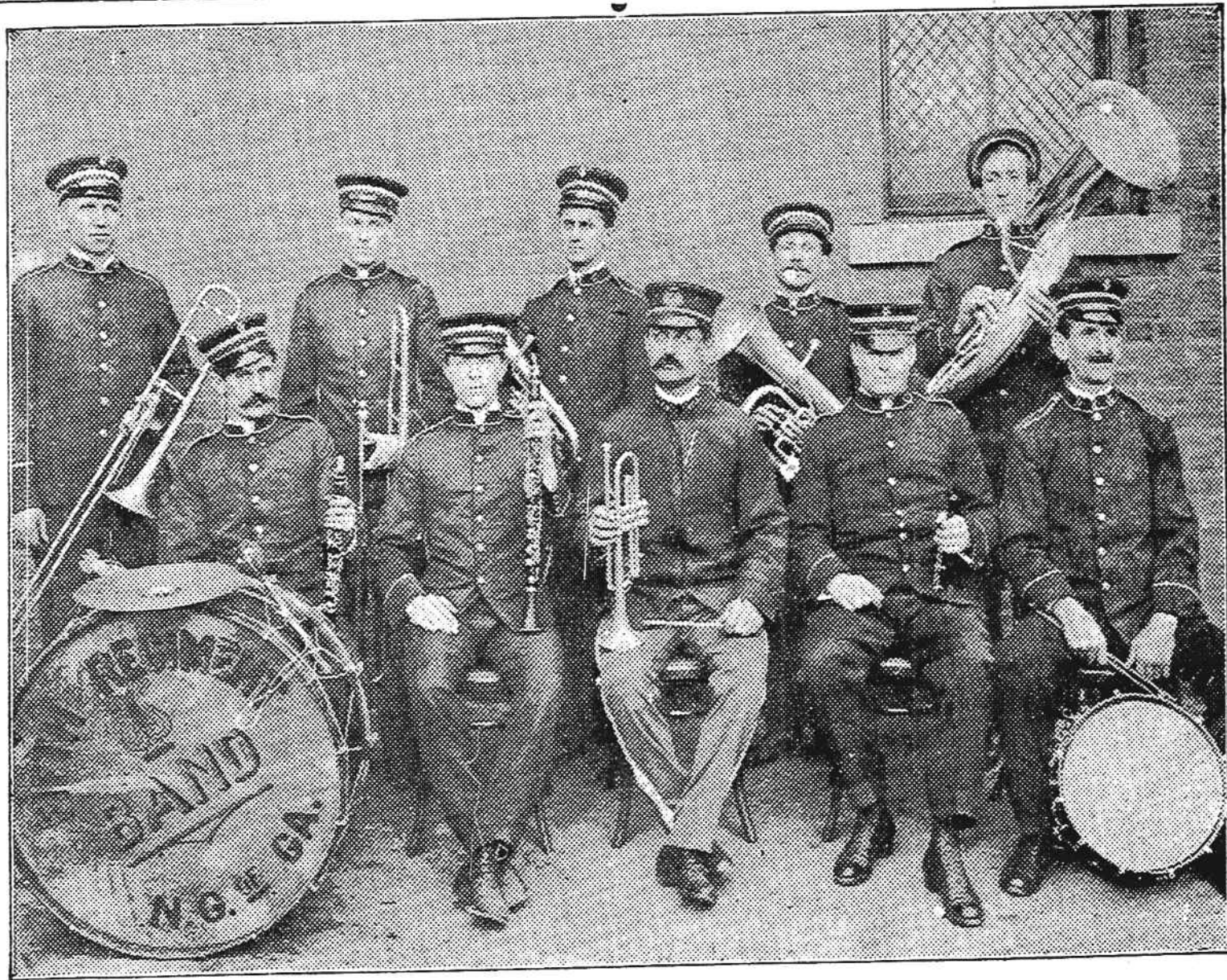
S. C. Morris, P. C.

Notice to Baracas.

The business meeting of the Baraca class of the first Baptist church will be held Friday afternoon, June 16, the date being changed from Tuesday on account of Chautauqua and Home-Coming week. At this meeting there will be an election of officers for the remainder of the year. Refreshments will be served. We hope every member will be present. Remember the date, June 16, at the home of Mr. and Mrs. J. H. West, 8.30 o'clock.

A. F. Lambright,
Press Reporter.

Baseball is a fresh air, healthful and interesting sport for players and spectators. It sets the red blood going and liven up people. That is the reason it is great. A town that doesn't support baseball needs some ginger under it—Wilmington Star. That is a snappy remark and we sneeze from that pinch of snuff you have just taken.



BAND AND ORCHESTRA FOR CHAUTAUQUA WEEK.